**Before the**
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, D.C. 20554**

| | |
|---|---|
| In the Matter of<br>Review of the Emergency Alert System | EB Docket No. 04-296 |

To: The Commission

## COMMENTS OF SIRIUS SATELLITE RADIO INC.

Sirius Satellite Radio Inc. ("Sirius") hereby comments in response to the Commission's Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding.[1] Sirius commends the Commission for its commitment to improve the Emergency Alert System ("EAS"). Indeed, numerous recent events – including the 9/11 terrorist attacks – underscore the nation's need for a reliable system to warn Americans of impending crises and emergencies. Unfortunately, as the NPRM details, the existing EAS is not such a system. Thus, the Commission's desire to improve EAS is timely and worthwhile, and Sirius fully supports these efforts. Sirus also believes that satellite DARS can and should be a vital part of a revamped and improved EAS.

Currently, satellite DARS providers – Sirius and XM Radio, Inc. – play no role in EAS, which "relies almost exclusively on delivery through analog radio and television broadcast

[1] *In the Matter of Review of the Emergency Alert System*, Notice Of Proposed Rulemaking, EB Docket No. 04-296, FCC 04-189 (Aug. 12, 2004) ("NPRM"), summarized at *Review of Emergency Alert System*, 69 Fed. Reg. 5283 (Aug. 30, 2004) (Notice of Proposed Rulemaking establishing a comment due date of Oct. 29, 2004 and a reply comment due date of Nov. 29, 2004).

stations and cable systems."[2] The NPRM, however, suggests including satellite DARS as a component of an improved EAS and asks numerous questions concerning this potential involvement.[3] For example, the NPRM questions whether the Commission "should adopt rules extending EAS obligations to . . . satellite DARS services"[4] and, more generally, whether "it continue[s] to serve the public interest to exempt services that reach increasingly larger portions of the American public from any requirement to provide public warning."[5] The Commission expressly asks whether the benefits associated with extending EAS obligations to services like satellite DARS outweigh the burdens.[6] The NPRM also notes that satellite DARS serves its customers on a national, not regional, basis, asking whether this affects the ability of satellite DARS licensees to discharge EAS obligations effectively and, if so, whether such limitations are technological or regulatory in nature.[7]

Sirius has always taken its obligation to serve the public interest seriously. Consistent with this dedication, Sirius voluntarily offers to participate in EAS to the extent possible. As its subscriber base continues to expand, Sirius realizes that its satellite DARS service can be an increasingly important component of EAS.

Assuming an appropriate entry point,[8] Sirius' participation in national-level alerts should be fairly straightforward. Sirius transmits over 120 channels to its subscribers nationwide. Once a national-level alert is received, Sirius can commit all channels to relaying that alert. Thus, all

---

2 NPRM, ¶ 4.

3 *Id*., ¶ 29.

4 *Id*.

5 *Id*.

6 *Id*.

7 *Id*.

8 *See infra* at 5 and n. 12.

persons listening to Sirius at the time of the alert will receive the warning. Sirius has also implemented an alert capability that interrupts current programming to broadcast a voice message alerting its listeners to an emergency. The message instructs listeners that an emergency exists and that they should tune to one of Sirius' news program channels for further details. This capability was exercised during the power blackout of August 2003.

The NPRM correctly recognizes, however, that the *national* nature of satellite DARS service complicates delivery of *local* and *regional* EAS messages.[9]

Sirius cannot and does not broadcast programming on a local or regional basis; instead, all of Sirius' subscribers, regardless of location, receive precisely the same programming. Sirius does provide programming content that is of local or regional interest (e.g., traffic updates for 20 markets and regional weather), but the content is broadcast on a nationwide basis. While satellite DARS does include localized terrestrial transmitters, satellite DARS providers have committed not to originate programming at their terrestrial repeaters. Accordingly, Sirius would need regulatory relief before it could use its terrestrial repeaters locally or regionally to preempt programming and deliver local or regional EAS alerts.

Further, even if such regulatory relief were granted, Sirius would face technological limitations. To begin with, Sirius' terrestrial repeaters are not technologically equipped to originate programming.[10] Thus, Sirius would have to deploy additional equipment in order use its terrestrial repeaters to originate EAS alerts. Moreover, because terrestrial repeaters are meant to address coverage gaps, Sirius' terrestrial repeater network does not cover the entire nation. In fact, a unique signal from a terrestrial repeater would only be properly received in areas where the repeater signal energy dominates the satellite received signal.

---

9 NPRM, ¶ 29.

10 Sirius uses leased Ku-band capacity to feed its terrestrial repeaters, which, in turn, only receive these signals and "repeat" them as S-Band signals for use by Sirius' customers.

Moreover, pre-empting all of Sirius' national programming to deliver EAS alerts that are truly local or regional in nature is a waste of spectrum resources. Such an approach would also force Sirius to broadcast large numbers of inapplicable EAS messages to subscribers, who might thereafter ignore any alert, even if relevant. Obviously, then, local or regional alerts should be transmitted only locally or regionally.

In view of these limitations, Sirius proposes to distribute local and regional EAS messages in two ways:

- On every channel, Sirius could explore pre-empting the text box – normally containing the channel name and current programming – to announce the locality/region and type of alert, and the Sirius channel number transmitting detailed information; and
- Sirius would pre-empt the relevant channel(s) normally used for local traffic and weather to transmit the authorized emergency information.

This combination will ensure widespread, but appropriately narrow, notification of relevant alerts.

While the foregoing is fairly simple, Sirius cautions the Commission that effective EAS participation by satellite DARS providers presupposes that Sirius *receives* EAS messages quickly, consistently, and reliably. The NPRM notes that, as a general matter, lack of consistent procedures and use of technology impedes EAS' effectiveness, especially for local and regional alerts.[11] A revamped and improved EAS should ensure that local, regional, and national EAS alerts are delivered to Sirius and other EAS participants in a timely and consistent manner. Otherwise, it will be difficult – and perhaps impossible – for Sirius or anyone else to help warn the American people.

[11] *See, e.g.*, NPRM, ¶¶ 3, 23-28.

For example, Sirius should not rely on existing terrestrial broadcast entry points,[12] but instead should link directly to the federal entity responsible for initiating national EAS messages. Local and regional EAS messages (which must include specific details concerning the affected localities of regions) might be received either directly or via an appropriate data network.[13] Wherever the origin, alert messages should be delivered to Sirius in a predetermined manner that is consistent with respect to format and technology employed. Sirius can only be an effective EAS participant if a new and revamped EAS ensures the sort of national, regional, and local consistency discussed in the NPRM. All EAS participants must be reading from the same page.

In sum, Sirius can, and volunteers to, help national, regional, and local authorities deliver information to the American people during times of emergency and crisis. Accordingly, Sirius is committed to working with the Commission, federal and non-federal governmental authorities, and other parties, to facilitate Sirius' participation in EAS.

Respectfully submitted,

**SIRIUS SATELLITE RADIO INC.**

By: */s/ Patrick L. Donnelly*

Patrick L. Donnelly
Executive Vice President, General Counsel
and Secretary
Sirius Satellite Radio Inc.
1221 Avenue of the Americas
New York, NY 10020
(212) 584-5100

October 29, 2004

[12] *See* NPRM, ¶¶ 16, 27.

[13] *See id.* ¶¶ 32-33.